

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION**

WRIT PETITION NO. 7334 OF 2005.

Babulal Husainsaheb Shaikh

...Petitioner.

V/s.

Khajabi Naruddin Babarchi & ors.. Respondents.

Shri I.M. Khairadi for the petitioner.

Shri S.S.Shah for for the respondent Nos. 1 & 2.

CORAM : V.C.DAGA, J.

DATED : 30.11.2005.

P.C. :

. Heard learned Counsel for the petitioner.

2. Petitioner has suffered concurrent finding of facts on three counts: (1) bonafide need (2) default in payment of rent and (3) change of user. Findings on all these counts are supported by evidence available on record. The finding of facts recorded by the Courts below cannot be said to be perverse finding. This Court not being a Court of appeal, is not expected to reappraise the evidence. No case is made out to interfere with the impugned order. Petition is accordingly dismissed in limine with no order as to costs.

3. At this stage, learned Counsel appearing for petitioner prays for grant of time to vacate the suit premises, subject to filing usual undertaking.

Shri Shah, learned Counsel appearing for the respondents has no objection to grant 6 months time to the petitioner to vacate the suit premises, subject to filing usual undertaking within 2 weeks from today. Considering the request made, I feel it would be reasonable to grant six months time to the petitioner to vacate the premises, subject to filing usual undertaking within two weeks from today. The undertaking should also contain a clause that the petitioner shall continue to pay agreed rent by way of compensation, regularly so long as they are in occupation and also not to create third party interest in the suit premises.

4. Needless to mention that failure on the part of the petitioner to file undertaking within two weeks as indicated above, it would be open for the respondents to execute the decree in accordance with law.